

Disposals and Community Asset Transfer (CAT) Policies

CONSULTATION

Introduction

Having adopted a new Property Asset Strategy in November 2023, Swale Borough Council is looking to update its policies for the disposal of property assets and in particular Community Asset Transfers (CATs). This consultation is seeking views from local and partner organisations and presents a set of draft principles which will guide the content of the new policies.

As the principle focus of the consultation, the principles specific to CATs are in the main body of this document. The wider principles for the Council's disposals policy are set out at Appendix I.

Both sets of principles are currently in draft form for consultation and the Council very much welcomes comments and views on the contents of this document.

Please help to inform the final document by completing the consultation questions at appendix II or [online](#) by 23 September 2024.

If you would like a paper copy of the consultation questions, please contact us at property@swale.gov.uk or call 01795 417398. Paper copies should be returned to the Strategic Programmes and Asset Management Team, Swale Borough Council, Swale House, East Street, Kent, ME10 3HT.

To provide further context, a map of Council owned property has been published on the [Council's website](#), which is available to review. The map can be found by clicking on the 'Land' option on the left side of the page and then selecting 'Land Ownership'.

Background

The Council has fairly wide discretion to dispose of its assets, including land or buildings. When disposing of assets, the Council is subject to statutory requirements, in particular to the overriding duty, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for a disposal.

This duty is subject to certain exceptions that are set out in the General Disposal Consent (England) 2003. Within financial limits, this gave Councils wider powers to dispose of land and property at less than Market Value where it could be demonstrated that they promoted the economic, social and environmental well-being of the area.

A series of subsequent Central Government policies have also encouraged the community ownership and management of assets through a series of initiatives, including the 2007 Quirk Review, which established support that helped deliver over 1500 asset transfers and most recently the 2011 localism act, which established the Community Right to Bid.

The aims of these policies have been to:

- Bring control of appropriate assets as close to residents and the community as possible
- sustain viability and improve service provision;
- deliver sustainable solutions that are accepted, agreed, 'owned' and driven by the local community;
- increase the number of local people helping to run or own local services or assets;
- realise wider community benefits such as increased levels of volunteering, social capital and civic participation; and
- improve the leverage of external funding into the local area through increased funding opportunities, encouraging economic development, and social enterprise activity.

Council Property Assets and Disposal

Having recently adopted a new [Property Asset Strategy](#), Swale Borough Council is updating its Disposals and Community Asset Transfers policies. This will set out the basis on which the Council will identify property assets that are surplus and the overarching principles that will guide the Council when disposing of its property assets.

A draft set of principles can be found at Appendix I, against which we invite comments and views to inform the drafting of a new policy for adoption.

One of the options available to local authorities for disposal of property assets, is through a Community Asset Transfer (CAT). The Council views CAT's positively as part of its long-term support for engagement and partnership with the voluntary and community sector and therefore also wishes to consult on a new CAT specific policy.

Community Asset Transfers

A CAT is defined as 'where the Council transfers land or buildings into the ownership or management of a Voluntary and Community Sector (VCS) organisation or statutory body'.

The use of a CAT applies to Council assets where community activities are the primary purpose of the asset, e.g. community halls and allotments. This is usually at less than Market Value, as a means to further local social, economic and / or environmental objectives.

CAT is a voluntary process entered into proactively by public bodies. They can provide significant benefits to both local councils and community groups by empowering communities and promoting local stewardship. Swale Borough Council is keen to embrace the opportunities it presents. The Council's consultation draft of its new Corporate Plan 2024-2027 identified a priority to "work in partnership with the local towns and parishes and voluntary sector on our community assets."

The Process

Although a number of steps are involved in a Community Asset Transfer, there are three key stages for those groups who are interested: -

- Stage 1 - Expression of Interest.
- Stage 2 - Full Application and Business Case
- Stage 3 –Heads of Terms for the transfer and basis for a Joint Working Agreement.

The CAT process may be started by either the Council advertising an opportunity or by an individual/organisation making an unsolicited request to take on management responsibility for an asset.

It should be understood that the process of implementing a successful transfer can take time and requires resources from both the Council and the organisation seeking to secure the property asset, as well as specific legal input on both sides.

The Principles for a new CAT Policy

The Council's Economy and Property Committee has agreed the following principles to underpin a new CAT policy.

1. **Risk Management:** The Council will identify potential risks associated with a CAT and develop a risk management strategy. This could include financial risks, the risk of asset mismanagement, and the risk of community conflict. A

comprehensive risk management strategy will help to mitigate these risks and ensure the long-term sustainability of the asset transfer.

2. **Community Engagement:** The Council will engage the wider community in the decision-making process for asset transfers. This can help to ensure local buy-in and support and may also open up additional sources of support and funding or alternative transferees.
3. **Clear Communication:** The Council will be transparent about the nature of the transfer and its potential implications. It will ensure community groups understand that they are receiving a valuable asset that can equate to a subsidy and what their responsibilities will be, particularly regarding property maintenance and repairs. This can prevent misunderstandings and poor asset maintenance and / or governance down the line.
4. **Long-term Financial Planning:** Community groups will be required to develop robust long-term financial plans that account for ongoing maintenance and repair costs. This might involve setting up a sinking fund for future repairs or seeking external funding sources.
5. **Legal and Contractual Clarity:** The Council will ensure that the legal agreements surrounding the asset transfer are clear and understood by those involved.
6. **Regular Monitoring and Evaluation:** There will be a need to implement a monitoring and evaluation system to track the performance and impact of the transferred assets. This will allow the Council to understand progress against plans submitted in support of the CAT and whether action is being taken to address any issues arising. . This will also prepare the Council should it become clear that the asset is likely to fall into disrepair or be mismanaged.
7. **Exit Strategy:** Every transfer should have a defined and agreed plan in place for what happens if the community group is no longer able to or have failed in managing the asset. This might involve transferring the asset to another group, selling it, or returning it to council control.

Swale Borough Council's approach to Community Asset Transfer

The Council will seek to implement a new CAT policy through targeted awareness raising, outreach and support to encourage town and parish councils or Voluntary and Community Sector (VCS) organisations.

Transfers will only take place to a statutory body (such as a town or parish council) or properly constituted group (for example, but not limited to, a Trust, Charity, Community Interest Company or Charitable Incorporated Organisation)

Any organisation must be able to demonstrate that it has the skills and experience to run the asset and a fully worked up a credible Business Plan for the asset in question. A CAT will not proceed if an organisation cannot adequately address this.

Where a business case is unsustainable, or progress towards a business case is not within appropriate timeframes, officers will make recommendations based on property, strategic and financial considerations. This would maintain the focus on minimising risk and maintaining the long-term viability of the Council's assets, which is key to supporting the wider delivery of services.

The Council will endeavour to work to an agreed and achievable timescale for CAT completions. All CATs will be discussed by Swale Borough Council's Officer Property Review Group which will make recommendations to either Economy and Property Committee or to officers where values fall within the limits of delegated authority. There will also be consultation with, local ward members, appropriate Council officers and other organisations as deemed to be required.

Support for organisations

To pro-actively pursue CATs support and training for community groups may be needed to ensure they can build and present a sustainable business model and manage and maintain the assets effectively. Whilst no existing Council resource is currently available to support this, some external funding or advice may be available, depending on the nature of both the asset and any plans a group is seeking to bring forward for it.

Appendix I

Principles for Disposal

Swale Borough Council's disposal policy will reflect the aims of the Property and Asset Strategy; continual asset review, rationalisation and streamlining of the Council's property portfolio. It is key that the Council continually assesses the financial viability of its assets to guide disposal decisions, but also takes account of the wider set of considerations. The continual review of the Council's Assets ensures the efficient and effective management of the Council's property portfolio, maximising value for money, contributing to the Council's long-term goals, and promoting economic development.

Criteria for Disposal

The following criteria shall be considered in determining the potential disposal of an asset:

Financial Viability

The financial viability of retaining or disposing of an asset will be assessed. This includes a thorough evaluation of the ongoing maintenance and whole life costs, potential income generation, the projected market value of the asset and whether this can be enhanced in advance of any disposal.

Long-term Council Goals

The alignment of the asset with the Council's strategic goals will be considered. These goals may include service delivery objectives, community needs, and the Council's sustainability targets.

Community Benefit

The potential community benefit of retaining or disposing of an asset will be assessed. This could include the potential for the asset to be used for community facilities, affordable housing, or other community or operational use.

Regeneration

The potential for the asset to contribute to economic development or wider regeneration in the borough will be considered. This could include the potential for job creation, business development, and the promotion of economic growth.

Legislative Framework and Government Guidance

This policy will comply with the relevant UK legislation and Government guidance, including but not limited to:

- The Local Government Act 1972: which gives local authorities the general power to dispose of land held by them in any manner they wish.
- The Localism Act 2011: which introduced the "General Power of Competence" providing local authorities with greater freedom to act in the best interests of their local communities.

- The Ministry of Housing, Communities & Local Government's (MHCLG) Non-Statutory Guidance on Disposal of Land by Local Authorities (February 2020): which provides guidance on achieving best consideration for the disposal of assets.

The Council's Property Asset Disposal Policy will ensure that decisions regarding the disposal of Council-owned assets are made in a transparent and accountable way, maximising the financial, social and economic benefits for the borough and its residents.

Surplus Properties

An asset shall be deemed to be surplus to the Council's requirements if one or more of the following apply:

- (a) It makes no contribution to the delivery of the Council's services,
- (b) It has no viable potential with regard to the delivery of the Council's Corporate Plan
- (c) An alternative and more cost effective service delivery site has been identified.

A site is deemed to be under-used if:

- (a) The income it generates is below that which could be achieved from one or more of:
 - (i) An alternative use
 - (ii) Disposing of the site and investing the income
 - (iii) Intensifying the existing use, mindful of the viability of doing so
- (b) A significant part of the site is vacant and is likely to remain so for the foreseeable future and has no potential with regard to the delivery of the Council's Priorities.
- (c) The cost of retaining the asset outweighs its likely income generation

Appendix II: Consultation Questions

1. Do you think the principles and approach to Disposals and Community Asset Transfers set out is correct?
2. Are there any changes or additional considerations you believe the Council should take into account?
3. Are there any specific Council assets you would wish to identify that should be considered for Community Asset Transfer? {please refer to the published map of Council-owned property assets)
4. Do you see any immediate barriers to local organisations successfully entering into a Community Asset Transfer?
5. Do you have any other comments you would like to make in respect of Council Property Asset Disposals or Community Asset Transfers?
6. If you are responding on behalf of an organisation, please indicate below. Please note that your organisation name will be associated with your responses.
7. Where are you based?